



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

Handwritten signature/initials

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,425	10/08/2003	Hisashi Kino	03171	4188

23338 7590 09/20/2004

DENNISON, SCHULTZ, DOUGHERTY & MACDONALD  
1727 KING STREET  
SUITE 105  
ALEXANDRIA, VA 22314

EXAMINER

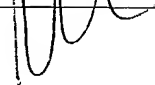
CASTRO, ARNOLD

ART UNIT PAPER NUMBER

3747

DATE MAILED: 09/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/680,425	<b>Applicant(s)</b> KINO ET AL. 	
	<b>Examiner</b> Arnold Castro	<b>Art Unit</b> 3747	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>01/12/2004</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Claim Objections*

1. Claim 1 is objected to because of the following informalities: Applicant claims "a second support the other axial end portion" it appears applicant inadvertently left out -- device supporting-- after "second". Appropriate correction is required.

### *Claim Interpretations*

2. The method claims dependent upon the apparatus claims were interpreted to include the throttle structure of the independent apparatus exclusively. In other words, the method claims were interpreted as if written "a method of mounting a motor to a throttle body *utilizing* the control device of claim X", where X is the independent apparatus claim.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Sato et al. (US/5,979,405).

Sato et al. discloses a throttle control device comprising: a throttle body defining an intake passage; a throttle valve (5) rotatably arranged in the intake passage; a motor (2) for rotating the throttle valve, the motor having a motor casing, with one axial end portion and an other axial end portion; a first support device (6,7) supporting the one

Art Unit: 3747

axial end portion (1A) of the motor casing fixedly on the throttle body; and a second support *device* (9) *supporting* the other axial end portion of the motor casing on the throttle body resiliently with respect to a radial and axial directions of the motor, the second support device (9) is disclosed as an elastic member having a substantially ring-like resilient support member (col. 3, lines 3-8, 38-46), claim 6. Alternatively, the support member 9 comprises an O-ring 9A (col. 3, lines 47-55).

Sato et al. disclosed throttle control device includes a motor housing (2) accommodating the motor, the motor housing having a stepped circular depression formed therein for receiving with clearance a shaft portion(2c) that protrudes from the other axial end surface of the motor casing provided on the other axial end portion of the motor casing, and wherein the support member (9) is disposed between the shaft portion and an inner peripheral surface of the stepped circular depression. See figures 1 and 3.

The methods of claims 11-30 are inherently disclosed in column 2 lines 3-23 and in light of given structure disclosed by Sato et al.

### **Conclusion**

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arnold Castro whose telephone number is (703) 305-0039. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yuen Henry can be reached on (703) 308-1946. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3747

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Arnold Castro  
Examiner  
Art Unit 3747

AC